



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Initial Patent Applications

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this revision of a continuing information collection.

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: InformationCollection@uspto.gov. Include "0651-0032 comment" in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by e-mail to raul.tamayo@uspto.gov.

Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION

I. Abstract

The USPTO is required by Title 35 of the United States Code, including 35 U.S.C. 131, to examine applications for patents. The USPTO administers the patent statutes through various rules in Chapter 37 of the Code of Federal

Regulations, including 37 CFR 1.16 through 1.84. The patent statutes and regulations require applicants to provide sufficient information to allow the USPTO to properly examine the application to determine whether it meets the criteria set forth in the patent statutes and regulations to be issued as a patent.

Most applications for patent, including new utility, design, and provisional applications, can be submitted to the USPTO through EFS-Web. EFS-Web is the USPTO's system for electronic filing of patent correspondence. EFS-Web is accessible via the Internet on the USPTO Web site. The Legal Framework for EFS-Web, available at http://www.uspto.gov/patents/process/file/efs/guidance/New_legal_framework.jsp, provides a listing of patent applications and documents permitted to be filed via EFS-Web and patent applications and documents not permitted to be filed via EFS-Web.

There are 69 forms in this collection. This total includes versions of the inventor's oath and declaration forms that were created to comply with the changes resulting from the Leahy-Smith America Invents Act, e.g., forms AIA/01, AIA/02, etc., as well as pre-America Invents Act versions of the oath and declaration forms, e.g., forms SB/01, SB/02, etc., and foreign language translations of

the oath and declaration forms, e.g., forms AIA/01CN, SB/02CN, etc. On the other hand, the petitions and the papers filed to supply the name or names of the inventor or inventors after the filing date without a cover sheet in a provisional application, to correct inventorship in a provisional application, and to convert a nonprovisional application to a provisional application do not have forms associated with them.

The Office of Management and Budget (OMB) approved this collection on January 8, 2011, but the Notice of Action included terms of clearance stating that the USPTO should conduct outreach to stakeholders regarding the burden of 0651-0032 Initial Patent Applications and ways to potentially reduce it before the next renewal of the collection. The terms of clearance also instructed the USPTO to include the results of this outreach in the next Information Collection Request submission. To fulfill this requirement, the USPTO will be conducting a special roundtable session later this year to collect feedback regarding the burden of the collection and ways to potentially reduce it. The results will be included in the Information Collection Request for the renewal of the collection. A subsequent notice will be published in the

Federal Register detailing the date and format of the roundtable.

The petitions and the papers filed under 37 CFR 1.41, 1.48, and 1.53(c)(2) can be filed electronically as well as in paper. The electronic options for these items are being added into the collection.

This collection currently has capital start-up costs associated with the compact disc copies of patent applications containing large computer program listings or mega tables, postage costs for these oversized submissions, and recordkeeping costs approved as part of the annual (non-hour) cost burden. As part of this renewal, the capital start-up costs are being deleted because these costs are usual and customary costs that are part of everyday business activities. The postage costs for the CD submissions for the oversized program listing or mega table applications are being deleted from this collection because the USPTO is projecting that a negligible number of them will be submitted. The recordkeeping costs associated with keeping a copy of the electronically-submitted patent application files and acknowledgment receipts are being deleted because the USPTO only suggests, but does not require, that applicants keep copies of their electronically-filed applications. In addition, the

recordkeeping costs for retaining a copy of the application transmittal form and a back-up copy of the CD submissions of applications with oversized computer program listings and mega tables are also being deleted at this time.

The USPTO is removing the fees associated with the majority of the information requirements in this collection because these fees have been moved into information collection 0651-0072 America Invents Act Section 10 Patent Fee Adjustments, which was approved by OMB in January 2013 in conjunction with the USPTO rulemaking "Setting and Adjusting Patent Fees" (RIN 0651-AC54). The corresponding fees are now being deleted from 0651-0032 to avoid double-counting these annual (non-hour) costs in the USPTO's inventory.

II. Method of Collection

As set forth in the Legal Framework for EFS-Web, available at http://www.uspto.gov/patents/process/file/efs/guidance/New_legal_framework.jsp, most of the items in this collection can be submitted electronically through EFS-Web. The USPTO will also accept submissions by mail, facsimile (limited to petitions to accept unintentionally delayed priority/benefit claims, petitions to accept a filing by

other than all the inventors or a person not the inventor, petitions to accord the application under 37 CFR 1.495(b) a receipt date, and papers filed under 37 CFR 1.41, 1.48, and 1.53(c)(2)), or hand delivery to the USPTO.

III. Data

OMB Number: 0651-0032.

Form Number(s): PTO/SB/01, 01A, 02, 02A, 02B, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02LR, 02NL, 02RU, 02SE, 03, 03A, 04, 06, 07, 14 EFS-Web, 16, 16 EFS-Web, 17, 29, 29A, and 101-110. This collection also includes the following AIA forms: PTO/AIA01 through AIA04, AIA08 through AIA11, AIA14 and 15, AIA18 and 19, and AIA01CN and 01DE, 01ES, 01FR, 01IT, 01JP, 01KR, 01NL, 01RU, 01SE, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02NL, 02RU, and 02SE.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for profits; not-for-profit institutions; and the Federal Government.

Estimated Number of Respondents: 597,047 responses per year. The USPTO estimates that approximately 157,950 of these responses will be from small entities (this estimate reflects a 25% small entity response rate for all

items in the collection, except for design-related items in the collection, for which a 50% small entity response rate is estimated). The USPTO estimates that 577,624 of the responses will be filed electronically.

Estimated Time Per Response: The USPTO estimates that it takes the public approximately 24 minutes to 33 hours and 12 minutes (0.40 to 33.2 hours) to complete this information, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the application, petition, or paper submission, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to gather the necessary information, prepare the applications, petitions, and other papers and submit them to the USPTO, whether the applicant submits it in paper form or electronically.

Estimated Total Annual Respondent Burden Hours:
12,522,680 hours per year.

Estimated Total Annual Respondent Cost Burden:
\$4,871,322,520 per year. The USPTO expects that all of the information in this collection will be prepared by an attorney. Using the professional hourly rate of \$389 for attorneys in private firms, the USPTO estimates that the

total respondent cost burden for this collection is
\$4,871,322,520 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Original New Utility Applications - No Application Data Sheet	33 hours and 12 minutes	800	26,560
Electronic Original New Utility Applications - No Application Data Sheet	33 hours and 12 minutes	26,500	879,800
Original New Plant Applications - No Application Data Sheet	7 hours and 36 minutes	100	760
Original New Design Applications - No Application Data Sheet	5 hours and 48 minutes	100	580
Electronic Original Design Applications - No Application Data Sheet	5 hours and 48 minutes	2,900	16,820
Original New Utility Applications - Application Data Sheet	33 hours and 12 minutes	7,500	249,000
Electronic Original New Utility Applications - Application Data Sheet	33 hours and 12 minutes	238,200	7,908,240
Original New Plant Applications - Application Data Sheet	7 hours and 36 minutes	1,200	9,120
Original New Design Applications - Application Data Sheet	5 hours and 48 minutes	800	4,640
Electronic New Design Applications - Application Data Sheet	5 hours and 48 minutes	26,500	153,700
Continuation/Divisional of an International Application	3 hours and 18 minutes	300	990
Electronic Continuation/Divisional of an International Application	3 hours and 18 minutes	10,200	33,660
Utility Continuation/Divisional Applications	3 hours and 18 minutes	2,200	7,260
Electronic Utility Continuation/Divisional Applications	3 hours and 18 minutes	71,600	236,280
Plant Continuation/Divisional Applications	2 hours and 12 minutes	200	440

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Design Continuation/Divisional Applications	1 hour and 6 minutes	100	110
Electronic Design Continuation/Divisional Applications	1 hour and 6 minutes	2,700	2,970
Continued Prosecution Applications - Design (Request Transmittal and Receipt)	24 minutes	25	10
Electronic Continued Prosecution Applications - Design (Request Transmittal and Receipt)	24 minutes	800	320
Utility Continuation-in-Part Applications	16 hours and 30 minutes	400	6,600
Electronic Utility Continuation-in-Part Applications	16 hours and 30 minutes	13,100	216,150
Plant Continuation-in-Part Applications	3 hours and 48 minutes	1	4
Design Continuation-in-Part Applications	2 hours and 42 minutes	20	54
Electronic Design Continuation-in-Part Applications	2 hours and 42 minutes	800	2,160
Provisional Application for Patent Cover Sheet	15 hours	5,500	82,500
Electronic Provisional Application for Patent Cover Sheet	15 hours	178,600	2,679,000
Petition to Accept Unintentionally Delayed Priority/Benefit Claim	1 hour	30	30
Electronic Petition to Accept Unintentionally Delayed Priority/Benefit Claim	1 hour	970	970
Petition to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	1 hour	33	33
Electronic Petition to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	1 hour	1,067	1,067
Petition under 37 CFR 1.6(g) to Accord the Application under 37 CFR 1.495(b) a Receipt Date	30 minutes	1	1

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Papers filed under the following: 1.41 - to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application. 1.48 - for correction of inventorship in a provisional application. 1.53 (c)(2) - to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c)	45 minutes	114	86
Electronic Papers filed under the following: 1.41 - to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51(c)(1) in a provisional application 1.48 - for correction of inventorship in a provisional application 1.53(c)(2) - to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c)	45 minutes	3,686	2,765
TOTAL	-----	597,047	12,522,680

Estimated Total Annual Non-hour Respondent Cost

Burden: \$431,933,422 per year. There are no maintenance, operation, capital start-up, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of postage and drawing costs, as well as a petition fee.

The applications, the petitions, and the papers filed under 37 CFR 1.41, 1.48, and 1.53(c)(2) may be submitted by mail through the United States Postal Service. The USPTO recommends that applicants file initial patent applications (which also include the continued prosecution, continuation and divisional, continuation-in-part, and provisional applications) by Express Mail to establish the filing date (otherwise the filing date of the application will be the date that it is received at the USPTO). The USPTO estimates that an application package will weigh at least one pound. Using the Express Mail flat rate cost for mailing envelopes, the USPTO estimates that the average cost for sending an initial application by Express Mail will be \$19.95 and that up to 19,246 may be mailed to the USPTO.

The petitions to accept unintentionally delayed priority/benefit claim, to accept a filing by other than all the inventors or a person not the inventor, and the papers filed under 37 CFR 1.41, 1.48, and 1.53(c)(2) can be sent by first-class mail. The USPTO estimates that these submissions will average two ounces, for a first-class postage rate of \$0.66 cents. The USPTO estimates that up to 177 submissions may be mailed per year.

The USPTO estimates that the total postage cost for this collection will be \$384,075 per year.

Item	Responses	Postage Cost	Total Postage Cost
EXPRESS MAILING COSTS			
Original New Utility Applications - No Application Data Sheet	800	\$19.95	\$15,960.00
Original New Plant Applications - No Application Data Sheet	100	\$19.95	\$1,995.00
Original New Design Applications - No Application Data Sheet	100	\$19.95	\$1,995.00
Original New Utility Applications - Application Data Sheet	7,500	\$19.95	\$149,625.00
Original New Plant Applications - Application Data Sheet	1,200	\$19.95	\$23,940.00
Original New Design Applications - Application Data Sheet	800	\$19.95	\$15,960.00
Continuation/Divisional of an International Application	300	\$19.95	\$5,985.00
Utility Continuation/Divisional Applications	2,200	\$19.95	\$43,890.00
Plant Continuation/Divisional Applications	200	\$19.95	\$3,990.00
Design Continuation/Divisional Applications	100	\$19.95	\$1,995.00
Continued Prosecution Applications - Design (Request Transmittal and Receipt)	25	\$19.95	\$499.00
Utility Continuation-in-Part Applications	400	\$19.95	\$7,980.00
Plant Continuation-in-Part Applications	1	\$19.95	\$20.00
Design Continuation-in-Part Applications	20	\$19.95	\$399.00
Provisional Application for Patent Cover Sheet	5,500	\$19.95	\$109,725.00
TOTAL EXPRESS MAILING COSTS	-----	-----	\$383,958.00
FIRST-CLASS MAILING COSTS			
Petition to Accept Unintentionally Delayed Priority/Benefit Claim	30	\$0.66	\$20.00
Petition to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	33	\$0.66	\$22.00
Papers Filed Under the Following: 1.41 - to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application. 1.48 - for correction of inventorship in a	114	\$0.66	\$75.00

Item	Responses	Postage Cost	Total Postage Cost
provisional application. 1.53(c)(2) - to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c)			
TOTAL FIRST-CLASS MAILING COSTS	-----	-----	\$117.00
Total Postage Costs			\$384,075.00

Patent applicants can submit drawings with the utility, design, plant, and provisional applications. Applicants can prepare these drawings on their own or they can hire patent illustration services firms to create them. As a basis for estimating the drawing costs, the USPTO expects that all applicants will have their drawings prepared by patent illustration firms. Estimates for the drawings can vary greatly, depending on the number of figures that need to be produced, the total number of pages for the drawings, and the complexity of the drawings. Because there are many variables involved, the USPTO is using the average of the cost ranges found for the application drawings to derive the estimated cost per sheet that is then used to calculate the total drawing costs.

The utility, plant, and design continuation and divisional applications use the same drawings as the initial filings, so they are not included in these totals. The continuation-in-part applications may use some of the

same drawings as the initial applications and some new drawings may be submitted, so those numbers are included in these estimates. The drawings for the continued prosecution applications are also included in the drawing cost totals. There are no continuation, divisional, or continuation-in-part provisional applications.

Costs to produce utility drawings can range from \$30 to \$200 per sheet. The USPTO estimates that it can cost \$115 per sheet to produce the utility drawings and that on average, 9 sheets of drawings are submitted, for an average cost of \$1,035 to produce the utility drawings. Out of 286,500 utility applications submitted per year, the USPTO estimates that 77% or 220,605 applications will be submitted with drawings.

Costs to produce design drawings can range from \$35 to \$350 per sheet. The USPTO estimates that it can cost \$193 per sheet to produce design drawings and that on average 9 sheets of drawings are submitted, for an average cost of \$1,737 to produce design drawings. The USPTO estimates that all of the design applications filed per year (31,945) will be submitted with drawings.

Photographs are generally submitted for the plant applications, although drawings can also be submitted. The USPTO therefore estimates that the costs to produce the

photographs or drawings could range from \$35 to \$100. The USPTO estimates that it can cost \$68 per sheet to produce plant drawings and that on average 9 sheets of drawings are submitted, for an average cost of \$612 to produce plant drawings. The USPTO estimates that all of the plant applications filed per year (1,301) will be submitted with drawings.

Costs to produce the provisional drawings can range from \$30 to \$200 per sheet. The USPTO estimates that it can cost \$115 per sheet to produce provisional drawings and that on average 9 sheets of drawings are submitted, for an average cost of \$1,035 to produce provisional drawings. Out of 184,100 provisional applications submitted per year, the USPTO estimates that 77% or 141,757 applications will be submitted with drawings.

The USPTO estimates the total non-hour cost burden as a result of patent applicants using patent illustration firms to produce the drawings for their utility, design, plant, and provisional applications is \$431,329,347.

Item	Responses	Average Drawing Cost	Average Total Drawing Cost
Utility Application Drawings	220,605	\$1,035	\$228,326,175.00
Design Application Drawings	31,945	\$1,737	\$55,488,465.00
Plant Application Drawings (Photographs)	1,301	\$612	\$796,212.00
Provisional Application Drawings	141,757	\$1,035	\$146,718,495.00
Total	-----	-----	\$431,329,347.00

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There is also annual (non-hour) cost burden in the way of filing fees for the petitions to accept a filing by other than all the inventors or a person not the inventor. The filing fees for the applications, the petitions to accept unintentionally delayed priority/benefit claims, the processing fees for the papers filed under 37 CFR 1.41, 1.48, and 1.53(c)(2), the additional fees incurred when an application is filed with additional sheets or excess claims, and the surcharges and fees incurred when an application, the search or examination fee, or the oath or declaration is filed late, when the application is filed with multiple dependent claims, or when the application is filed with a non-English specification are covered under 0651-0072 America Invents Act Section 10 Patent Fee Adjustments.

The total estimated filing costs of \$220,000 for this collection are calculated in the following table.

Item	Resps (yr) (a)	Filing Fee	Total Non-Hour Cost Burden (yr) (a) x (b)
Petition to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	33	\$200.00	\$6,600.00
Electronic Petition to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	1,067	\$200.00	\$213,400.00
Petition under 37 CFR 1.6(g) to accord the Application under 37 CFR 1.495(b) a Receipt Date	1	N/A	\$0.00
Totals	1,101	-----	\$220,000.00

The USPTO estimates that the total annual (non-hour) respondent cost burden for this collection, in the form of postage and drawing costs, in addition to petition fees, is estimated to be approximately \$431,933,422 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the USPTO's request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g., permitting electronic submission of responses.

Dated: September 25, 2013

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.
BILLING CODE: 3510-16-P

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